

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BRET WILLIAM ROSS,

Petitioner,

v.

SCOTT SPEER,

Respondent.

CASE NO. C25-5009-JCC-BAT

ORDER

This matter comes before the Court on Petitioner Bret Ross’s objections (Dkt. Nos. 6, 7) to the report and recommendation (“R&R”) of the Honorable Brian A. Tsuchida, United States Magistrate Judge (Dkt. No. 4). Judge Tsuchida recommends the Court dismiss with prejudice Mr. Ross’s habeas petition. (*Id.* at 4.) Having thoroughly considered the briefing and the relevant record, the Court hereby **OVERRULES** Plaintiff’s objections and **ADOPTS** Judge Tsuchida’s R&R but dismisses the petition without prejudice.

According to the R&R, Mr. Ross filed two prior federal habeas petitions challenging the same state court conviction as in the instant petition.<sup>1</sup> (Dkt. No. 4 at 2.) Both were dismissed. (*Id.*) The Court dismissed the first on procedural grounds and the second on the merits (as

---

<sup>1</sup> See generally *Ross v. Bennett*, Case No. C24-5528-TL, Dkt. No. 1 (W.D. Wash. 2024) (alleging unlawful seizure in violation of the Fourth Amendment); *Ross v. Bennett*, Case No. C24-5573-TMC, Dkt. No. 1 (W.D. Wash. 2024) (alleging violation of Mr. Ross’s Sixth Amendment right to jury trial).

1 untimely). (*Id.*)

2 Judge Tsuchida now recommends dismissing the instant petition for failure to overcome  
3 procedural and jurisdictional defects. (*See generally id.*) First, Judge Tsuchida recommends  
4 treating Mr. Ross's petition as one under 28 U.S.C. § 2254 rather than 28 U.S.C. § 2241, as  
5 § 2254 is the *only* habeas remedy available for a state court conviction. (*Id.* at 2.) Judge Tsuchida  
6 next concludes that Mr. Ross's habeas petition is a second or successive one under 28 U.S.C.  
7 § 2244(b)(2). (*Id.*) And as Judge Tsuchida rightfully notes, this Court lacks jurisdiction to  
8 examine a second or successive petition unless authorized by the Ninth Circuit. (*Id.* at 2) (citing  
9 § 2244(b)(3)). Judge Tsuchida aptly concludes that Mr. Ross failed to receive such authorization  
10 here. (*Id.*) Judge Tsuchida further explains that the Court must dismiss a second or successive  
11 petition unless it meets the exceptions laid out in 28 U.S.C. § 2244(b)(2), and observes that Mr.  
12 Ross's petition fails to meet these exceptions. (*Id.* at 2–3.)

13 In objecting, Mr. Ross does not meaningfully address these defects or Judge Tsuchida's  
14 ultimate recommendation. (*See generally* Dkt. Nos. 6, 7.) Instead, he lodges generic, non-  
15 responsive arguments, including even an objection to a magistrate judge writing an R&R to  
16 begin with. (*See generally* Dkt. Nos. 6, 7.) Mr. Ross's petition is therefore insufficient to trigger  
17 *de novo* review of the R&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); *see also* Fed. R.  
18 Civ. P. 72(b)(2) (a party properly objects by filing "specific written objections"); *Simpson v.*  
19 *Lear Astronics Corp.*, 77 F.3d 1170, 1175 (9th Cir. 1996) (describing the requirements for a  
20 proper objection). As such, the Court need not consider Mr. Ross's objections or, by extension,  
21 his petition.

22 The Court therefore OVERRULES Mr. Ross's objections (Dkt. Nos. 6, 7), ADOPTS the  
23 R&R (Dkt. No. 4), DISMISSES Mr. Ross's petition without prejudice<sup>2</sup>, DENIES leave to  
24

---

25 <sup>2</sup> The R&R recommends dismissing Mr. Ross's petition *with* prejudice. (Dkt. No. 4 at 1.)  
26 However, because the ultimate defect in Mr. Ross's petition is jurisdictional, the Court dismisses  
the petition *without* prejudice.

1 proceed *in forma pauperis* (Dkt. No. 1), DENIES a certificate of appealability, and DIRECTS  
2 the Clerk to send copies of this order to Mr. Ross and Judge Tsuchida.

3 DATED this 19th day of February 2025.

4  
5  
6 

7 John C. Coughenour  
8 UNITED STATES DISTRICT JUDGE  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26